



Center for  
Constitutional Rights

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February 1982

Memorandum:

Re: Lawsuit Over Mercenary Recruitment and Training in U.S.  
and Actions Threatened Against Nicaragua.

The Center for Constitutional Rights has noted with great concern the reports of mercenary training camps and related recruitment activities, most notably in Florida, but also in Georgia, Texas, California, and elsewhere. After numerous inquiries and requests that something be attempted in the legal arena, the Center has authorized sponsoring a suit to challenge this situation, particularly the refusal of federal or state authorities to do anything.

This memorandum explores, briefly, some of the legal theories which have been discussed. Guidance is sought from interested parties with respect to additional legal theories, and in regard to possible plaintiffs--as it is recognized that standing to sue will be one of the most difficult hurdles.

After initial study, it appears that the following statutes are some of those being violated:

- 1) 18 U.S.C. §956 prohibits a conspiracy to destroy the property of a foreign government with which the U.S. is at peace, including railroads, canals, bridges, or public utilities.
- 2) 18 U.S.C. §231 prohibits the teaching of or use of firearms which are likely to injure any persons or their property.
- 3) 18 U.S.C. §960 [the Neutrality Act] prohibits any person within the U.S. from assisting or enabling others to carry out any enterprise against any state or people with whom the U.S. is at peace.
- 4) Other criminal statutes prohibit the transport or receipt of firearms without licenses.

A lawsuit could be brought to compel U.S. government authorities to bring charges against those participating in, funding, or otherwise assisting in the recruitment for or running of the camps, based on these and other statutes. It is clear, though, that there will be difficult legal issues presented, particularly prosecutorial discretion and the claims of the government that there is no proof that actual invasion plans, as opposed



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to simple and presumably lawful military training and practice, are in existence. There may also be issues under various state laws, which have not yet been researched.

Certain civil statutes provide another possible basis for a lawsuit. For example, 42 U.S.C. §1981, of the civil rights laws, could be used by Nicaraguan or U.S. citizens whose ability to conduct business is impaired due to the dangerous conditions created by the training camps and the threats of invasions and other incursions, insofar as those persons are not receiving the equal protection of the laws.

Persons who have been injured or whose property has been damaged in Nicaragua by persons trained in the U.S. might allege deprivation of their rights under 42 U.S.C. §1985(3). The training camps may also violate other state and federal constitutional rights as well as international treaties and international law generally, and agreements guaranteeing non-intervention in the affairs of other nations.

Considerable investigation must still be done regarding potential plaintiffs. Nicaraguans in Nicaragua, and in the U.S. might be necessary plaintiffs; businesspeople with property in Nicaragua might be helpful plaintiffs; citizens of Florida, for example, might be helpful for certain claims.

These preliminary notes will be developed further.